

BOARD OF OPTOMETRY

Modified Text

Changes to the originally proposed language are shown by underline for new text and strikeout for deleted text.

Amend section 1579 of Division 15 of Title 16 of the California Code of Regulations to read as follows:

1579. Citable Offenses.

The executive officer of the board shall assess fines for citable offenses listed in this section, provided however, in no case shall the total fines exceed \$2,500: for each violation. The executive officer shall not impose any duplicate fines for the same violation.

~~B & P refers to the Business and Professions Code~~

~~CCR refers to the California Code of Regulations~~

~~The summary description in this section is for the convenience of reference only, does not include the complete text or all required elements of the listed Statute and regulations and shall be disregarded in determining the meaning and effect of this section.~~

~~(a) The minimum and maximum fine for a violation of the following sections of the Business and Professions Code and California Code of Regulations shall be \$50 and \$500, respectively:~~

	<u>B&P</u>	<u>CCR</u>	<u>Summary Descriptions</u>	<u>Range of Fine</u>
(1)	3070	1505	Notification Address	50. - 500.
(2)	3075	1506	Display of Certificate	50. - 500.
(3)	3076		Temporary Practice	50. - 500.
(4)	3098		Misuse of Title or Letters	50. - 500.
(5)	3100		Employment of Cappers/Steerers	50. - 500.
(6)	3125	1513, 1518 & 1546	False/Assumed Name	50. - 500.
(7)	3162	1549	Corporation Report/Renewals	50. - 500.
(8)		1565	Prescription Standards	50. - 500.
(9)		1566	Notice to Consumers	50. - 500.

(b) ~~The minimum and maximum fine for a violation of the following sections of the Business and Professions Code and California Code of Regulations shall be \$501 and \$1000, respectively.~~

	<u>B & P</u>	<u>CCR</u>	<u>Summary Descriptions</u>	<u>Range of Fine</u>
(1)	3077	1507 & 1550	Branch Offices	501 – 1,000
(2)	3129		Advertisement of Furnishing Services Without Cost	501 – 1,000
(3)	3165	1548	Shares Transfer & Ownership	501 – 1,000

(c) ~~the minimum and maximum fine for a violation of the following sections of the Business and Professions Code and California Code of Regulations shall be \$1,101-0 \$2,500, respectively.~~

	<u>B & P</u>	<u>CCR</u>	<u>Summary Descriptions</u>	<u>Range of Fine</u>
(1)	650		Fee for Referral	1,001 – 2,500
(2)	651	1512	False/Misleading Advertising	1,001 – 2,500
(3)	655		Prohibited Relationships	1,001 – 2,500
(4)	3090		Unprofessional Conduct	1,001 – 2,500
(5)	3096		Solicitation	1,001 – 2,500
(6)	3102		Employment of Suspended/ Unlicensed Optometrist	1,001 – 2,500
(7)	3103	1514	Accepting Unlawful Employment	1,001 – 2,500
(8)	3104	1515	Improper Advertising	1,001 – 2,500
(9)	3127		Practice Without Certificate	1,001 – 2,500
(10)	3128		Holding Self Out as an Optometrist Without Valid Certificate	1,001 – 2,500

(b) Where citations include an assessment of an administrative fine, they shall be classified according to the nature of the violation and shall indicate the classification on the face.

(c) Class “A” citations involve a person who has engaged in the practice of optometry without a current and valid license, including, but not limited to, acting in the capacity of an optometrist or performing or controlling the practice of optometry as defined in Business and Professions Code section 3041.

A class “A” citation is subject to an administrative fine in an amount not less than one thousand five hundred dollars (\$1,500) and not to exceed two thousand five hundred dollars (\$2,500) for each violation.

(d) Class “B” citations involve an optometrist who has either:

(1) Violated any statute or regulation which would be grounds for discipline by the Board that has caused non-physical financial harm to a person, or

- (2) Has committed a violation that are grounds for issuance of a Class "C" citation and has been issued one or more prior Class "C" citations within the three (3) years immediately preceding the issuance of the citation.

A class "B" citation is subject to an administrative fine in an amount not less than five hundred dollars (\$500) and not to exceed two thousand five hundred dollars (\$2,500) for each violation.

(e) Class "C" citations involve an optometrist who has violated any statute or regulation which would be grounds for discipline by the Board that did not cause physical or financial harm to a person.

A class "C" citation is subject to an administrative fine in an amount not less than two hundred fifty dollars (\$250) and not to exceed two thousand five hundred dollars (\$2,500) for each violation.

(f) Notwithstanding the administrative fine amounts specified in subsections (c), (d), and (e), a citation may include a fine between two thousand five hundred one dollars (\$2,501) and five thousand dollars (\$5,000) if one or more of the following circumstances apply:

- (1) The citation involves a violation that has an immediate relationship to the health and safety of another person;
- (2) The cited person has a history of two or more prior citations of the same or similar violations;
- (3) The citation involves multiple violations that demonstrate a willful disregard of the law;
- (4) The citation involves a violation or violations perpetrated against a senior citizen or disabled person;
- (5) The citation involves fraudulent billing submitted to an insurance company, or Medi-Cal or Medi-Care programs;

(g) The sanctions authorized under this section shall be separate from, and in addition to, any other civil or criminal remedies.

NOTE: Authority cited: Sections 125.9 148, 2545, and 3025, Business and Professions Code. Reference: Sections 125.9, 148, and 2545, Business and Professions Code. ~~Authority cited: Sections 125.9 and 3025, Business and Professions Code. Reference: Section 125.9, Business and Professions Code.~~